IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5528 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIJUBEN WIFE OF NAMA CHHAGAN PATEL

Versus

COMMISSIONER OF POLICE

Appearance:

MR SUNIL C PATEL for Petitioner

Mr.H.L.Jani,learned A.G.P. for the respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/02/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the order of detention passed against the petitioner by the Police Commissioner,Surat City on 6.7.99 for which she is under detention at Sabarmati Central Jail, Ahmedabad since July 1999.The grounds of detention enclosed with the detention order show that

there were 2 cases pending against her under the Prohibition Act involving the allegation of possession of 510 and 612 lits. of liquor. It also appears from the grounds of detention that there are allegations against the petitioner that she had pressurised two of the witnesses on 18.4.99 and 30.5.99 to store the unauthorised liquor and one of the witnesses has also stated that she had extorted amount of Rs.500/- from this witness. The aforesaid detention order was confirmed by the Board on 22.8.99 and her representation against detention was rejected on 16.8.99.

The learned A.G.P. has failed to show as to how the grounds mentioned in the detention order constitute a case of breach of public order. According to the settled law as declared by the Supreme Court, these allegations do not constitute a case of breach of public order so as to warrant the detention under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985. A difference has to be made between the grounds constituting a case of breach of law and order and breach of public order.The grounds for breach of law and order are not germane to the passing of the detention order.

Accordingly the detention order dt.6.7.99 passed by the Police Commissioner, Surat City therefore cannot be sustained in the eye of law. The same is hereby quashed and set aside. It is directed that the petitioner shall be released forthwith if not required to be detained otherwise under any other detention order or in any other criminal case. This Special Civil Application is allowed. Rule is made absolute.

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